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Letter dated 27 August 2015 from the Secretary-General to the President of the Security Council

On 7 August 2015, the Security Council unanimously adopted resolution 2235 (2015), in which the Council reiterated its condemnation in the strongest terms of any use of any toxic chemical, such as chlorine, as a chemical weapon in the Syrian Arab Republic and expressed its determination to identify those responsible for those acts. In that regard, the Council recalled the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare; the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction; and Council resolutions 1540 (2004), 2118 (2013) and 2209 (2015).

To that end, the Security Council decided to establish a Joint Investigative Mechanism for a period of one year with a possibility of future extension by the Council, if it deemed it necessary, to identify to the greatest extent feasible, individuals, entities, groups or Governments who were perpetrators, organizers, sponsors or otherwise involved in the use of chemicals as weapons, including chlorine or any other toxic chemical, in the Syrian Arab Republic where the fact-finding mission of the Organization for the Prohibition of Chemical Weapons determined or had determined that a specific incident in the Syrian Arab Republic had involved or had likely involved the use of chemicals as weapons, including chlorine or any other toxic chemical.

I hereby submit to the Security Council for its authorization, in accordance with paragraph 5 of resolution 2235 (2015), recommendations, including elements of terms of reference, regarding the establishment and operation of an Organization for the Prohibition of Chemical Weapons-United Nations Joint Investigative Mechanism. This submission is made in coordination with the Director-General of the Organization for the Prohibition of Chemical Weapons.

In paragraph 6 of resolution 2235 (2015), the Security Council requested that, after it had authorized the Joint Investigative Mechanism, I, in coordination with the Director-General of the Organization for the Prohibition of Chemical Weapons, undertake without delay the steps, measures and arrangements necessary for the speedy establishment and full functioning of the Mechanism, including recruiting impartial and experienced staff with relevant skills and expertise to fully implement the responsibilities pursuant to resolution 2235 (2015), with due regard to be given to the importance of recruiting staff on as wide a geographical basis as was practicable.

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Furthermore, in paragraph 9 of resolution 2235 (2015), the Security Council requested the fact-finding mission of the Organization for the Prohibition of Chemical Weapons to collaborate with the Joint Investigative Mechanism from the commencement of the Mechanism's work to provide full access to all of the information and evidence obtained or prepared by the fact-finding mission, including, but not limited to, medical records, interview tapes and transcripts, and documentary material. The fact-finding mission would transmit all evidence and findings to the Joint Investigative Mechanism. Based on its assessment of that information, the Mechanism may request the fact-finding mission to provide additional information or may decide that an additional investigation or additional investigations are required.

Since the adoption of resolution 2235 (2015), I have been in close contact with the Director-General of the Organization for the Prohibition of Chemical Weapons, Ahmet Üzümcü, and staff members of our organizations have been working closely in order to develop the requested recommendations and to plan for the implementation of the resolution. Based on these consultations, and in coordination with the Director-General, I wish to present my recommendations, including elements of terms of reference, to implement our respective roles and responsibilities pursuant to resolution 2235 (2015).

For the purposes of the Joint Investigative Mechanism, the United Nations and the Organization for the Prohibition of Chemical Weapons shall operate within the areas of their particular competencies, taking into account the complementary roles of each organization.

The Director-General and I shall agree on a supplementary arrangement pursuant to the Agreement concerning the Relationship between the United Nations and the Organization for the Prohibition of Chemical Weapons, concluded in 2001. Such an arrangement shall set out the modalities for cooperation between the United Nations and the Organization for the Prohibition of Chemical Weapons in the context of resolution 2235 (2015).

The Joint Investigative Mechanism shall demonstrate objectivity, and its composition shall reflect comprehensive, professional and multidisciplinary expertise to meet the mandate of the resolution.

In coordination with the Director-General of the Organization for the Prohibition of Chemical Weapons, and the heads of other relevant international organizations as appropriate, I shall undertake the recruitment of impartial and experienced staff to provide the relevant requisite skill sets. Recruitment shall be based on professional expertise and experience, with due regard to the importance of recruiting staff on as wide a geographical basis as practicable.

I propose that the leadership of the Joint Investigative Mechanism comprise an independent three-member panel to be supported by a core staff of professionals grouped into three components. In this regard, the Mechanism shall be headed by an Assistant Secretary-General with overall responsibility, and two Deputies at the D-2 level, responsible for the political and investigation components, respectively.

As noted, the leadership of the Joint Investigative Mechanism shall be supported by three components. A political office, to be based in New York, shall provide political analysis, legal advice, media relations and administrative support. An investigations office, to be based in The Hague, shall provide chemical and

medical analysis, forensics, military ordnance analysis, investigation, and information analysis. A planning and operations support office, to be based in New York, shall provide support to the political and investigation components.

Given the particular nature of the responsibilities and operating environment of the Joint Investigative Mechanism, I intend to fully use the authority invested in me, including in the area of human resources, to promote the timely achievement of the mandate of the Mechanism, while maximizing the safety and security of its personnel.

With regard to its functions, methods of work and scope, the Joint Investigative Mechanism shall conduct its operations in an independent manner and shall be responsible for its report(s).

The Joint Investigative Mechanism, in fulfilling its mandate, shall ensure the integrity and confidentiality of its work, including the protection of documents and evidence, as much as possible while meeting its reporting requirements.

In paragraph 7 of its resolution 2235 (2015), the Security Council recalled that in resolution 2118 (2013) the Council had decided that the Syrian Arab Republic and all parties in that country should fully cooperate with the Organization for the Prohibition of Chemical Weapons and the United Nations and stressed that that included an obligation to cooperate with the Director-General of the Organization for the Prohibition of Chemical Weapons and its fact-finding mission and the Secretary-General and the Joint Investigative Mechanism. Such cooperation included full access to all locations, individuals and materials in the Syrian Arab Republic that the Joint Investigative Mechanism deemed relevant to its investigation and where it determined that there were reasonable grounds to believe access was justified based on its assessment of the facts and circumstances known to it at the time, including in areas within the Syrian territory but outside of the control of the Government of the Syrian Arab Republic, and also included the ability of the Mechanism to examine additional information and evidence that had not been obtained or prepared by the fact-finding mission but that was related to the mandate of the Mechanism, as set forth in paragraph 5 of resolution 2235 (2015).

The fact-finding mission shall continue to operate under the authority of the Director-General of the Organization for the Prohibition of Chemical Weapons.

The Joint Investigative Mechanism shall undertake activities to identify to the greatest extent feasible individuals, entities, groups or Governments who were perpetrators, organizers, sponsors or otherwise involved in the use of chemicals as weapons, including chlorine or any other toxic chemical, in the Syrian Arab Republic where the fact-finding mission determined or had determined that a specific incident in the Syrian Arab Republic had involved or likely involved the use of chemical weapons, including chlorine or any other toxic chemical. In implementing its mandate, the Joint Investigative Mechanism shall undertake its work in an impartial manner.

For this purpose, the Joint Investigative Mechanism may undertake activities at: the location(s) where the use of toxic chemicals as a weapon is alleged to have occurred, including locations directly relevant to the Mechanism, such as hospital(s), and emergency response stations; any other location(s) within the Syrian Arab Republic, including territories not under its control; and neighbouring and other relevant States, as it may consider necessary or appropriate.

The Joint Investigative Mechanism shall liaise and coordinate with the Government of the Syrian Arab Republic, opposition groups and the international community, as it deems necessary.

In paragraph 11 of resolution 2235 (2015), the Security Council requested the Joint Investigative Mechanism to complete its first report within 90 days of the date on which it commenced its full operation, and complete subsequent reports as appropriate thereafter, and also requested the Mechanism to present its report(s) to the Security Council and inform the Executive Council of the Organization for the Prohibition of Chemical Weapons. Those reports shall be transmitted under cover by the Secretary-General to the Security Council.

It should be noted that the operation of the Joint Investigative Mechanism shall be separate from the operation of humanitarian work, which provides indispensable life-saving support to innocent people suffering from the conflict, and from the political process, which is seeking to bring about a diplomatic solution to the conflict.

The Joint Investigative Mechanism may have a "light footprint" in the Syrian Arab Republic, deploying only those personnel whose presence is necessary to the performance of their functions. The United Nations shall support the Joint Investigative Mechanism and fact-finding mission deployments primarily in the area of logistics, security and liaison, with support for communications, administration and possibly other areas, as may be required.

With respect to cooperation with all parties in the Syrian Arab Republic and Member States, I note that the extremely challenging mandate and dangerous situation inside the Syrian Arab Republic will impact the activities of the Joint Investigative Mechanism. Success will therefore depend on the full cooperation of all parties, including the Government and other parties in the Syrian Arab Republic.

The Joint Investigative Mechanism may establish contact with and receive information from any parties in the Syrian Arab Republic.

The United Nations shall engage, in its areas of responsibilities, with international and regional actors, and with the Security Council and other stakeholders, in furtherance of the implementation of resolution 2235 (2015) and related resolutions of the Council. The strong support of the Council and key stakeholders will be essential to the success of the Joint Investigative Mechanism.

The Syrian Arab Republic and all parties in that country shall cooperate fully with the Joint Investigative Mechanism and shall provide full access to all locations, individuals and materials in the Syrian Arab Republic that the Mechanism deems relevant to its investigation and where it determines that there are reasonable grounds to believe that access is justified based on its assessment of the facts and circumstances known to it at the time, including in areas within the Syrian territory but outside the control of the Syrian Arab Republic.

With regard to cooperation with the Syrian Arab Republic and all parties in that country, for territory both under and outside the control of the Syrian Arab Republic, full access shall be granted to the Joint Investigative Mechanism and the fact-finding mission of the Organization for the Prohibition of Chemical Weapons, as necessary. In order for the Mechanism to accomplish its mandate, it would be necessary for all parties to pause hostilities in the areas in which the Mechanism

requires access for the period of its presence in those areas. This shall apply to the fact-finding mission, as appropriate.

The United Nations shall do its utmost and use all means available to it to work with all parties to ensure compliance with these requirements, including through the good offices of my Special Envoy for the Syrian Arab Republic.

In light of the exceedingly complex security challenges which may limit the means at the disposal of the Joint Investigative Mechanism, the support of the Security Council, Member States and other stakeholders with influence over parties in the Syrian Arab Republic is essential in respect of facilitating the full compliance of all parties in the Syrian Arab Republic with its requirements.

With regard to cooperation with neighbouring States, at the request of the Joint Investigative Mechanism, neighbouring States may contribute support and assistance in facilitating its activities by providing, inter alia, information, security and protection for the Mechanism and its personnel, equipment and documents, access to victims or witnesses taking refuge on their territories, and transportation and logistical support to the activities of the Mechanism within their territories.

The role of other Member States will also be critical. All other Member States are called upon to offer their full support to the work of the Joint Investigative Mechanism. In paragraph 8 of resolution 2235 (2015), the Security Council called on all other States to cooperate fully with the Mechanism and in particular to provide it and the fact-finding mission of the Organization for the Prohibition of Chemical Weapons with any relevant information that they may possess pertaining to individuals, entities, groups or Governments who were perpetrators, organizers, sponsors or otherwise involved in the use of chemicals as weapons, including chlorine or any other toxic chemical in the Syrian Arab Republic.

The core staff of the Joint Investigative Mechanism shall be funded from the regular budget. Additional expertise and activities shall be funded by voluntary contributions as requirements continue to emerge. For that purpose, the Secretary-General intends to establish a trust fund. The Mechanism shall make reports to donors on the status of the trust fund.

In paragraph 10 of resolution 2235 (2015), the Security Council requested the Secretary-General, in coordination with the Director-General of the Organization for the Prohibition of Chemical Weapons, to report to the Council and inform the Executive Council of the Organization for the Prohibition of Chemical Weapons as of the date the Joint Investigative Mechanism began its full operations and every 30 days thereafter on the progress made.

It is envisaged that the monthly progress reports shall be in respect of both Security Council resolutions 2235 (2015) and 2118 (2013).

The Joint Investigative Mechanism shall complete its first report within 90 days of its commencement of full operations and complete subsequent reports as appropriate thereafter. The Mechanism shall transmit the report or reports to the Security Council under my cover letter and inform the Executive Council of the Organization for the Prohibition of Chemical Weapons.

I would like to close by reiterating that the work of the Joint Investigative Mechanism will be a challenging undertaking, and will require continued close cooperation between the Organization for the Prohibition of Chemical Weapons and

the United Nations, and the support of the Security Council, Member States and key stakeholders.

I should be grateful if you would bring the present letter urgently to the attention of the Security Council.